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DEPARTMENT OF STATE
BRIEFING MEMORANDUM

S/S

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March 15, 1977

TO: The Deputy Secretary

THROUGH: T - Lucy Wilson Benson, Designate *LWB*
T/D - Joseph S. Nye *JSN*

FROM: OES - Patsy T. Mink, Designate *PTM*

PRC Meeting on PRM-15 Response

You will be chairing the PRC meeting at 3:00 p.m., March 16 on the PRM-15 response. This memorandum provides for your use brief background material keyed to the proposed agenda (Tab 1). Suggested Talking Points are also provided for your use as Chairman and for you or for Joe Nye to use in presenting the Department's views.

I. Purpose of Meeting

The purpose of the meeting is to review the response to PRM-15 and define agency differences on certain key issues to enable the President to make necessary choices. These issues relate to the emphasis on domestic reprocessing in the international fuel cycle evaluation program, options on the scope of safeguards, and the legislating of export criteria; also, if there is time, the EURODIFF/COREDIF purchase, the international plutonium storage issue and discussion of the pros and cons of the Administration developing its own non-proliferation legislative package. The PRC also needs to address the role of the Interagency Group in follow-on studies. We suggest you open the meeting by reviewing the proposed Agenda.

Talking Points

-- We need to resolve differences or define positions on three major issues for Presidential determination:

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: WILLIAM J GEHRON
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Accession # 59-04-0166, box # 4, file PRM15 Review, 1977-80 Policy Directives

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These issues deal with

- (1) the role of reprocessing in the international evaluation program;
- (2) the scope safeguards to be required; and
- (3) options for legislating export criteria.

-- We need to review the role of a continuing Interagency Group (IG) in follow-on studies.

-- Finally, if we have time, we should address four additional issues on which there are differences:

- (1) the possible purchase by the USG of shares in EURODIF and/or COREDIF;
- (2) international plutonium storage;
- (3) the proposed "open season" for ERDA enrichment contracts; and
- (4) the legislative package.

II. Opening Remarks on Overall Policy Direction

You may wish to make some opening remarks on the overall strategy proposed in the PRM response and the foreign policy context in which we will be pursuing our non-proliferation goals. Alternatively, you may wish Joe Nye to give a brief overview.

Talking Points (General)

-- The President has given high priority to non-proliferation policy.

-- The Interagency Working Group, chaired by Joe Nye, has produced a comprehensive report with specific and interrelated recommendations to the President on how best to pursue our non-proliferation goals.

-- The report recognizes the need to deal with political and security motivations behind nuclear weapons acquisition but emphasizes avoiding the further spread

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under national control of materials and facilities capable of use for nuclear explosives.

-- Conceptually, the report develops a four-pronged strategy involving:

(1) controls (including effective safeguards, political assurances and other export controls);

(2) restraint and/or denials of further transfer of sensitive technologies;

(3) incentives, particularly guarantees of long-term supply of low-enriched reactor fuel at economical prices to countries accepting non-proliferation constraints; and,

(4) an international fuel cycle evaluation program, including other suppliers and recipients, exploring fuel cycle alternatives with a view toward reducing fuel cycle proliferation risks.

-- Non-proliferation is a priority goal, and the US must be prepared to apply our influence to achieve progress in this area, but we need to also recognize the broader foreign policy context.

Talking Points (State Views)

-- The PRM report strikes an appropriate balance, pursuing non-proliferation efforts while minimizing adverse political consequences.

-- Even so, adoption of these policies is not without risk and may place strains on overall relations with our major industrialized partners and with important developing states.

-- This is particularly so in connection with our efforts to deter or at least delay further reprocessing.

-- Our policies must be designed to meet nuclear energy needs: we may need flexibility to permit access to fuel cycle activities by non-nuclear weapons states with clear economic need and strong non-proliferation credentials over the long term.

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-- In developing long-term strategies and fuel cycle alternatives, we must try to avoid or minimize discrimination between nuclear weapons states and non-nuclear weapons states, and between industrialized and developing countries.

-- A major tactical point: we should consult with key states before issuance of a Presidential statement on non-proliferation.

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III. First Issue: International Evaluation and Reprocessing Options

There is consensus among agencies that the US should undertake in consultation with other concerned nations, a fuel cycle evaluation program to investigate ways of avoiding or minimizing the problems associated with the presence of separated plutonium. There are differences, however, among agencies over the emphasis to be placed on domestic reprocessing, in contrast to technical alternatives, in such an evaluation program. There are two options: (1) that we include as a part of the international evaluation program, a domestic program for design, development and safeguards evaluation work on conventional reprocessing (ERDA and perhaps others favor this option); and (2) that the US give almost exclusive technical focus in its domestic program to alternatives to reprocessing (supported by State, ACDA, CEQ and EPA).

The Department view, in favor of option 2, is based on the belief that our domestic program, more than any other element, will convey a signal to other countries concerning our intent to avoid or proceed with reprocessing, that there is no economic need for the US to proceed now, and while not foreclosing some reprocessing evaluation in the US in small-scale facilities (but not Barnwell), that we should utilize primarily foreign reprocessing facilities for evaluating safeguards and non-proliferation aspects of reprocessing.

Talking Points (Chairman)

-- We all seem to be agreed on the need for an international fuel cycle evaluation program and to get other countries involved in various parts of the evaluation.

-- There are apparently differences over the relative emphasis which we should give to domestic reprocessing in such a program.

-- I understand that State, ACDA and others share the view that the domestic aspects of the program should focus almost entirely on alternative fuel cycles. I welcome a further exposition of these agencies' views.

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-- I understand that ERDA believes that the Administration should pursue an evaluation program which assesses alternatives, but which also includes research, development and design efforts to assess and improve non-proliferation and safeguards aspects of reprocessing. I welcome further comments from ERDA on their views.

Talking Points (State Views)

-- The State Department believes the international fuel cycle evaluation program should emphasize ways of avoiding or minimizing the problems associated with presence of separated plutonium, while including studies of institutional or logistical arrangements (such as use of supplier services or multinational centers) whereby the risk associated with reprocessing could be minimized. We strongly concur that the US should invite other countries to establish a consultative arrangement of supplier and recipient countries to participate in the evaluation. Lead countries would be identified in each area to meet non-proliferation objectives.

-- We are concerned, however, that if the US were to go forward with a major reprocessing activity, other countries would perceive this as a decision to proceed with commercial reprocessing, despite efforts to describe this program as "experimental."

-- This would be seen as contrary to our international call for a pause in such fuel cycle decisions. We, therefore, support Option 3(b) calling for a domestic evaluation program with heavy emphasis on alternatives not requiring separation of plutonium.

-- In stating this view, we do not foreclose the possibility of US participation in experimental evaluation work using conventional reprocessing technology at foreign facilities and/or small-scale facilities in the US.

-- In particular, in terms of activities in the US, we oppose efforts leading to reprocessing capabilities at major facilities such as Barnwell.

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IV. Second Issue: Comprehensive Safeguards Options

The issue is what US policy should be adopted, for application in new and amended agreements, with regard to comprehensive safeguards on the nuclear activities of recipients. There is general USG agreement that we should seek to persuade all other suppliers to agree to full-scope safeguards as a condition of supply, and that we should require them ourselves if supplier agreement is achieved. However, there are differing views in the USG on what policy we should adopt with respect to safeguards in the absence of supplier agreement. There are four options:

1. Even in the absence of supplier agreement, the US could require full-scope safeguards as a condition of supply under new and amended agreements (favored by ACDA).

2. Even in the absence of supplier agreement, we could require a modified form of full-scope safeguards covering existing facilities and subsequently acquired material, coupled with supply termination in the event a recipient acquires an unsafeguarded facility or explodes a nuclear explosive device.

3. We could seek supplier agreement and customer acceptance of the above modified form of full-scope safeguards, but require it only when acceptance by major suppliers is achieved; in the meantime continue present policy of safeguards on U.S.-supply only.

4. We could seek customer acceptance of full-scope safeguards, but continue our present policy of requiring safeguards on U.S.-supply pending supplier consensus on the full-scope approach (ERDA favors this option).

The Department favors option 2, (modified full-scope safeguards); however, while adopting this policy, we would also vigorously pursue supplier agreement to this same policy. We would review U.S. policy after one year. We believe this position would be more widely acceptable to key non-NPT recipients (e.g. Brazil, Pakistan, Spain and possibly Israel and South Africa).

The French, who are the key to supplier acceptance, appear interested in this formulation. We further believe it is probably the minimum position acceptable to Congress.

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Talking Points (Chairman)

-- We all agree that we should seek supplier agreement to full-scope safeguards and, if successful, apply that policy ourselves on all new or amended agreements. Moreover, this does not appear likely in the near-term.

-- The issue is the extent of safeguards we should require in the absence of supplier agreement on full-scope.

-- I understand that ACDA favors application of full-scope safeguards unilaterally by the U.S. even in the absence of supplier agreement. I would welcome ACDA's views.

-- State, I believe, supports option 2, a modified form of full-scope safeguards which they propose to apply in new and amended agreements even in the absence of supplier agreement, although a strong effort would be made to achieve such agreement. Mr. Nye may wish to expand on this. Are there any other agencies which prefer this option?

-- A third option is to apply this modified form of full-scope safeguards only when we achieve supplier acceptance, and in the meantime, continue our present policy of requiring safeguards only on U.S.-supplied materials and equipment.

-- Finally, I understand that ERDA considers the above options undesirable in present circumstances and would prefer to continue present policy, while seeking customer acceptance and supplier consensus on full-scope safeguards. ERDA may wish to expand on its views.

Talking Points (State Views)

-- Until we achieve agreement among suppliers to full-scope safeguards, the Department believes that we should adopt option 14(b).

-- Under this option, we would require in new or amended agreements as a condition of supply that all facilities and subsequently acquired materials in recipient states be subject to IAEA safeguards.

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-- Unlike full-scope safeguards, it would require no international commitment to place future facilities under safeguards or, in the case of countries that may currently have unsafeguarded materials, to place these under safeguards.

-- However, this approach would be coupled with a supplier-recipient understanding that, if the country intends to acquire an unsafeguarded facility, the recipient must notify the supplier in advance and supply would be terminated; additionally, supply would be terminated if the recipient subsequently detonates a nuclear explosive.

-- We believe that the US must adopt more comprehensive safeguards conditions on our nuclear supply, but we do not believe that adoption of full-scope safeguards at this time would be in our interest.

-- The modified approach, however, would be a major step in that direction, without running as great a risk of driving customers away from US nuclear cooperation.

-- Moreover, this approach would place reliance on bilateral supply arrangements to deter unsafeguarded activities, rather than on obtaining international commitments; this should be more acceptable to recipients.

-- The French, who are the key to supplier agreement, appear to be interested in this modified safeguards formulation, and we believe it would probably be acceptable to non-NPT countries such as Brazil, Pakistan and Spain and might even be acceptable to South Africa and Israel. (We believe, however, it is doubtful that India would accept even this formulation.)

-- Finally, in order to lessen the political risk, we also recommend that

- the US vigorously urge adoption by all suppliers of the modified full-scope condition as an interim policy; and,

- we review the effectiveness of our policy on comprehensive safeguards after one year.

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V. Third Issue: Options for Legislating Export Criteria

In all likelihood, we will be presenting a comprehensive legislative package to the Congress on various aspects of non-proliferation policy. It will contain Administration recommendations of US export criteria to be applied, not only to new agreements, but also to existing agreements. We have also recommended in the PRM response that we should seek to negotiate new conditions for exports under existing agreements. The issue here is whether new US export criteria should become applicable to exports under existing agreements automatically, after a specified time period, regardless of success or lack of success of our efforts to renegotiate. There are three options:

1. That the Executive Branch propose or agree to legislation that would make new NRC export licensing criteria a requirement for all exports after a specified time period.

2. That we propose legislative language which would require a Presidential determination as to whether exports not meeting new criteria would be permitted after a specified time period (State and ACDA position).

3. That we make the new criteria negotiating goals for revision of existing agreements, but not requirements for export unless supplier consensus is achieved. (ERDA favors this option).

State prefers option 2 (Presidential determination) on the grounds that it effectively signals our intent to achieve stricter controls and is probably the minimum formulation acceptable to Congress. However, it would not place us in the position of unilaterally insisting on sweeping changes in the terms and conditions of existing agreements unless the President so determines.

Talking Points (Chairman)

-- There is general agreement, I understand, that we should seek to negotiate new conditions for exports under existing agreements.

-- Moreover, we will be developing a legislative package on non-proliferation or perhaps modifying existing bills which will contain NRC export criteria. The issue here is to what extent these criteria should be applicable automatically to exports under existing agreements.

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-- ACDA, I believe, favors an option which would make new criteria automatically applicable after a specified time period. Would the ACDA representative care to expand on this view?

-- Option 2 would allow for Presidential exceptions in cases where a country did not accept the new criteria within a specified time frame (State position). Mr. Nye might wish to speak on this option.

-- The third option would make the new criteria negotiating goals for revision of existing agreements, but not requirements until supplier consensus is achieved. ERDA might wish to comment further on this option.

Talking Points (State Views)

The Department fully supports the report recommendation that we seek to negotiate new conditions for exports under existing agreements.

-- Various Congressional bills have specified that new export criteria should be applied automatically by law after a specified time period (perhaps 18 months) with the option of a Presidential delay.

-- We believe a policy of insisting on such sweeping changes could result in charges that we were breaking existing agreements and could be used by recipients as an excuse for terminating safeguards.

-- We strongly endorse Option 19(b); that is, rather than an automatic requirement, the President, after a specified time, should be required to formally determine whether supply under existing agreements could continue in the absence of one or more specified criteria.

-- We believe that it would effectively signal US intent to achieve stricter controls, and it is probably the minimum formulation acceptable to Congress. It also would reduce the risk noted above.

-- While favoring inclusion of this requirement for a formal Presidential determination with regard to new nuclear export criteria in the proposed Administration's legislative package, we do not favor legislation of a Congressional override of such determination.

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-- We believe that the Executive Branch should accept a Congressional override only as a fallback and in the context of gaining Congressional acceptance of our overall non-proliferation proposal.

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VI. Interagency Follow-on Studies

The PRM response recommends that an Interagency Group (IG), chaired by the Department of State (Joe Nye), continue to function to (1) coordinate implementation of US non-proliferation policy and the necessary continuing evaluations and studies; (2) report to the President on the status of the effort and (3) identify further issues on which Presidential decisions will be required. The IG should give urgent attention, among many other follow-on issues, to: (a) US budgetary allocations for the international evaluation program, and (b) the non-proliferation aspects of breeder development. We need Presidential confirmation of the continuing role of the IG on these and other issues and a decision that the IG should report to the PRC on a continuing basis.

Talking Points

--The final recommendation in the PRM report proposes that the Interagency Group, chaired by State, continue to function in coordinating policy implementation.

--Two major issues requiring urgent attention by the IG in follow-on studies concern budgetary allocations for the international evaluation program, and non-proliferation aspects of breeder development.

--I would welcome any views on these and other matters that the IG needs to address.

Talking Points (State Views)

--We strongly support the PRM report recommendation to set up a task force under the IG on non-proliferation to be headed by ERDA and tasked to come up with US budget allocations in support of the evaluation program.

--We understand these budget recommendations must be to OMB by early April. Therefore, there is need to get this effort started urgently.

--On the breeder development, we understand that ERDA is conducting a study to reassess technical aspects of the breeder development program.

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--We believe it is essential to consider non-proliferation aspects as well. We also need to consider foreign breeder programs and determine our attitude toward making weapons-usable material available for these programs.

--We therefore urge that we undertake a special study of non-proliferation aspects of the breeder in parallel with the on-going technical assessment.

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VII. Other Issues (Time Permitting)

A. Purchase of shares in EURODIF/COREDIF

In order to assure enriched uranium fuel supply to countries accepting non-proliferation restraints and as a step toward supplier cooperation, it has been proposed that the US purchase approximately one million separative work units (SWUs) from EURODIF and/or COREDIF, the multinational enrichment enterprises operated by France. This fuel would be available to the US as a supplement to our indigenous capacity and also as insurance to US recipients who were complying with our non-proliferation constraints, if we defaulted on a long-term supply contract due to licensing or other problems. The PRM response contains two options on this issue:

1. That the Executive Branch enter into negotiations and seek legislative authorization to purchase shares in EURODIF and/or COREDIF (State position).
2. That the Interagency Group explore further the merits of such an investment (supported by ERDA, ACDA and OMB).

The State Department supports option 1 believing that this mechanism would significantly enhance US credibility as a reliable supplier as well as improve US-French nuclear relationships and secure a US voice in European enrichment services. Moreover, it would be a significant step toward cooperative international fuel assurance arrangements which may, in fact, be the long-term solution to the fuel supply problems.

Talking Points (Chairman)

-- I understand there are differences over the proposed purchase of shares in EURODIF and/or COREDIF, in order to supplement our indigenous capacity and insure fuel supplies to countries complying with non-proliferation constraints.

-- The State Department wishes to move ahead promptly to negotiate with the French and to seek legislative authorization. Mr. Nye can expand on this position.

-- ERDA, ACDA and OMB wish to have the idea studied further before we commit ourselves. I would welcome their views.

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Talking Points (State Views)

-- Under this proposal, the US would purchase approximately one million separative work units (equivalent to one-ninth of the Portsmouth add-on capacity) from EURODIFF and/or COREDIFF, the multinational enrichment enterprises operated by France. This capacity would fuel approximately ten reactors over their lifetime.

-- Enriched uranium from these enterprises would be available to the US as a supplement to our indigenous capacity but also as insurance to US recipients who were complying with our non-proliferation constraints, if we failed to meet delivery under long-term supply contracts for other reasons. In such an event, this capacity would be made available, perhaps, through some type of arbitration mechanism.

-- Congressional approval for commitment of this capacity would, of course, be obtained, e.g., in authorizing purchase ~~of~~ on a case-by-case basis, via approval of the Agreement for Cooperation with designated recipients.

-- The Department believes this proposed mechanism would significantly enhance US credibility as a reliable supplier as well as improve US-French nuclear relationships and secure a US voice in European enrichment services.

-- In addition, it would be a significant step toward cooperative multilateral fuel assurance arrangements which may, in fact, be the long-term solution to the fuel supply problem.

-- We believe that the small amount of capacity envisaged would not present difficulties either in terms of budgetary considerations or total enrichment capacity and would be a small price to pay to reestablish the US as a reliable supplier.

B. International Plutonium Storage

President Ford's October 28 nuclear policy statement directed the Secretary of State to pursue the establishment of an international storage regime for both spent fuel and civil plutonium, and announced that we would be prepared,

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once a broadly representative IAEA storage regime is in operation, to place our own excess civil plutonium and spent fuel under its control. There is interagency consensus on encouraging international spent fuel storage, but differences among Agencies over the merits of the international plutonium regime. The two options on this issue simply stated are that we pursue the concept of international plutonium storage or deemphasize efforts to establish such a regime.

Our position on this issue is that we should deemphasize efforts to create an international plutonium storage regime. The concern here is that such a regime, while perhaps appropriate in the future in connection with establishing a few, carefully sited, multinational plants, offers little security against diversion or abrogation and can be used (as in the case of Brazil and Pakistan) to legitimize current efforts to acquire reprocessing. In addition, release conditions for separated plutonium would very likely fall short of U.S. conditions for approval, and we would probably not be able to accept such conditions on U.S.-supplied fuel.

Talking Points (Chairman)

-- President Ford proposed that we pursue the concept of an international plutonium storage regime as well as a spent fuel storage regime. All agencies favor the latter, but some would prefer to deemphasize the former.

-- Mr. Nye can speak for those who wish to deemphasize international plutonium storage.

-- ERDA may wish to suggest the advantages it sees in pursuing the concept.

Talking Points (State Views)

-- With regard to an IAEA storage regime for separated plutonium, the Department favors Option (b)--that we deemphasize establishment of such a regime, but continue to actively pursue an IAEA spent fuel storage regime.

-- The Department agrees that, as pointed out in the PRM study, there would be substantial advantages to an IAEA spent fuel storage regime.

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-- We also note that some other countries believe the IAEA Statute provision for IAEA storage applies only to separated plutonium, and that in any case, it could not be interpreted to apply only to spent fuel.

-- However, a storage regime for separated plutonium-- while perhaps appropriate in the future in connection with establishing a few, carefully sited, multinational plants-- offers little security against diversion or abrogation and can be used (as in the case of Brazil and Pakistan) to legitimize current effort to acquire reprocessing.

-- In addition, release conditions for separated plutonium and definitions of "excess" would very likely fall short of US conditions for approval. We, therefore, believe we should deemphasize international storage of separated plutonium.

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C. "Open Season"

US credibility as a reliable supplier has been seriously eroded in recent years, partly due to ERDA contracting policies which led it to suspend enrichment service contracts in 1974 because of short capacity. In the short term, we believe that we could make available additional SWUs and thereby enhance US credibility as a supplier if ERDA were authorized to conduct an "open season" (allow present customers to terminate contracts without penalty) to increase the enrichment service available to foreign and domestic customers. The PRM response contains a recommendation favoring an "open season". (State supports this recommendation.)

Talking Points

--There is general agreement that the US must re-establish its credentials as a reliable supplier, and the PRM response recommends that ERDA hold an "open season" during which present customers could terminate contracts without penalty. This could free-up additional SWUs for other recipients, both domestic and foreign.

--ACDA and ERDA may wish to comment further on this recommendation, which I understand is supported by all Agencies.

D. Legislative Package

In its early days, the 95th Congress has devoted considerable attention to nuclear export legislation. A dozen bills have already been introduced and numerous committees and Congressmen in both Houses are involved, making it clear that they intend to enact strong measures early in this session. Some of the measures before the Congress would, if enacted, create situations which would make it difficult, if not impossible, for the US to continue many of its nuclear cooperative efforts. The position of the Administration is anxiously awaited.

We need to address the question of whether the Executive Branch should present a legislative package or seek to obtain the desired legislative results by trying to influence the major bills which have already been introduced.

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OMB takes the view that the latter strategy could foster cooperation and better working relations between the Congress and the Executive Branch and encourage compromises on the part of Congress. The State Department and most other Agencies believe that a comprehensive package could unify the Administration's non-proliferation policies, reduce the chances that conflicting legislation might be passed and facilitate international understanding and acceptance of US policies. In any event, we need to move rapidly to develop legislative strategy, and if we propose a comprehensive package, we should work closely with Congress and seek to incorporate important aspects of existing bills.

Talking Points (Chairman)

--We are all aware of the intense Congressional interest in this area, and we need to prepare a strategy on the legislation needed to implement the various recommendations. There are already a dozen bills in the hopper and hearings have been scheduled in the near future on some of them.

--I note that most Agencies appear to be in favor of presenting Congress with a comprehensive legislative package incorporating the major initiatives proposed by the Administration.

--OMB has suggested that we might do better if we sought to influence the major bills already introduced rather than propose an Administration-sponsored bill. Would OMB like to comment further?

Attachment:

Proposed Agenda

Drafted: OES/NET/RD:JACoon/JBoright/LVNosen^{1/2}:lmt
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Concurrences: S/P - Mr. Kahan
PM/NPO - Mr. Oplinger
L/EUR - Mr. Bettauer

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PROPOSED AGENDA

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(PRC Meeting on PRM-15)

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1. Opening Remarks on Overall Policy Direction
2. International Evaluation and Reprocessing Options
3. Comprehensive Safeguards Options
4. Options for Legislating Export Criteria
5. IG Follow-On Studies
 - US Budgetary Allocations for International Evaluation
 - Non-Proliferation Aspects of Breeder Development
6. Other Issues (Time Permitting)
 - EURODIF Purchase
 - International Plutonium Storage
 - Open Season
 - Legislative Package

UNITED STATES DEPARTMENT OF STATE
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